

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HOLMAN-FARRAR HOLDINGS,
LLC,

Plaintiff,

v.

OLD REPUBLIC NATIONAL TITLE
INSURANCE COMPANY,

Defendant.

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C.A. NO. 1:22-cv-00937-DAE

**DEFENDANT’S SECOND AMENDED RULE 26
DISCLOSURES AND AMENDED EXPERT DESIGNATIONS**

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure and the Court’s Scheduling Order, Defendant Old Republic National Title Insurance Company (“Old Republic”) hereby serves its second amended disclosures and amended expert designations and states:

SECOND AMENDED RULE 26 DISCLOSURES

1. **Persons with knowledge.** The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.

DISCLOSURE:

1. Tom Holman
c/o David K. Sergi
DAVID K. SERGI & ASSOCIATES, P.C.
329 S. Guadalupe St.
San Marcos, Texas 78666
Phone: (512) 392-5010

Mr. Holman is one of the principals of the Plaintiff company, Holman-Farrar Holdings, LLC (“Holman-Farrar”).

2. Julie Farrar
c/o David K. Sergi
DAVID K. SERGI & ASSOCIATES, P.C.
329 S. Guadalupe St.
San Marcos, Texas 78666
Phone: (512) 392-5010

Ms. Farrar is one of the principals of Holman-Farrar.

3. Fred R. Jones
LANGLEY & BANACK
745 East Mulberry Avenue
Suite 700
San Antonio, Texas 78212
Phone: (210) 736-6600

Mr. Jones was retained by Old Republic to represent Holman-Farrar in connection with its claim under the title insurance policy at issue.

4. Jon G. Petersen
CHERRY / PETERSEN / LANDRY / ALBERT LLP
8350 N. Central Expressway, Suite 1500
Dallas, Texas 75206
Phone: (214) 265- 5085 (direct)

Mr. Peterson is an attorney that may have knowledge of the claim submitted by Holman-Farrar to Old Republic under the title policy at issue.

5. James “Jimmy” Umstattd
UC2, Ltd.
3355 Bee Cave Road #700
Austin, Texas 78746

Mr. Umstattd is a general partner member of UC2, Ltd. and has knowledge of the extension of a new sewer line by the City of San Marcos between the two properties on Old Ranch Road 12.

6. Christian Umstattd
UC2, Ltd.
3355 Bee Cave Road #700
Austin, Texas 78746

Mr. Umstattd is a general partner member of UC2, Ltd. and has knowledge of the extension of a new sewer line by the City of San Marcos between the two properties on Old Ranch Road 12.

7. Eric Van Gaasbeek, R.S., C.F.M.
Hays County Development Services
2171 Yarrington Rd. #100
Kyle, Texas 78640
Phone: (512) 393-2187

Mr. Van Gaasbeek is the Chief Environmental Health Specialist and Floodplain Administrator at Hays County Development Services. He may have knowledge regarding the sewage and water services issues with the property.

8. Tom Pope
Hays County Development Services
Chief Environmental Health Specialist/Floodplain Administrator
Retired

Mr. Pope was the initial Chief Environmental Health Specialist and Floodplain Administrator at Hays County Development Services that Holman-Farrar worked with. He has since retired. He may have knowledge regarding the sewage and water services issues with the property.

9. Marcus Pacheco
Hays County Development Services
2171 Yarrington Rd. #100
Kyle, Texas 78640
Phone: (512) 393-2150

Mr. Pacheco is the Development Services Director and may have knowledge regarding the sewage and water services issues with the property.

10. Hugo Elizondo, Jr., P.E.
Cuatro Consultants, Ltd.
3601 Kyle Crossing, Ste. A
Kyle, Texas 78640
Phone: (512) 312-5040

Mr. Elizondo, Jr. is the consultant hired by Holman-Farrar to work with the city to extend the sewer line to the property. He may have knowledge regarding the sewage and water services issues with the property.

11. Martha G. King, former employee
Other Employees and Representatives of
Old Republic National Title Insurance Company
c/o Amanda Sotak
Don Colleluori
FIGARI + DAVENPORT, LLP
901 Main Street, Suite 3400
Dallas, Texas 75202
Phone: (214) 939-2000

Ms. King has knowledge of Holman-Farrar's claim under Owner's Policy of Title Insurance No. TO08090902 (the "Policy") and Old Republic's handling of the claim.

12. Elizabeth Ehlers
Assistant Director of Development Services
Planning & Development Services
City of San Marcos
630 E. Hopkins
San Marcos, Texas 78666
Phone: (512) 805-2640

Ms. Ehlers may have knowledge of a Temporary Certificate of Occupancy.

Old Republic reserves the right to supplement this response should additional information become available during the discovery process.

2. **Documents.** A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

DISCLOSURE:

The following documents, data compilations, and tangible things, by category and location, are in the possession, custody, or control of Old Republic: (1) the Policy; (2) Old Republic's files for the claim submitted by Holman-Farrar under the Policy; and (3) the files maintained by Fred Jones, counsel retained by Old Republic under the Policy to assist Holman-Farrar in resolving the claim.

Old Republic reserves the right to use any and all documents produced by any party or third party in this case and to amend this response should additional documents be identified during the discovery process.

3. **Damages.** A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

DISCLOSURE:

None at this time.

4. **Insurance Agreement.** For inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

DISCLOSURE:

Not applicable.

AMENDED DESIGNATION OF TESTIFYING EXPERTS

Old Republic designates the following persons who it may call to provide expert testimony at trial:

Non-Retained Experts

1. Nancy Rogers, Chief Claims Counsel
Other Employees and Representatives of
Old Republic National Title Insurance Company
c/o Amanda Sotak
Don Colleluori
FIGARI + DAVENPORT, LLP
901 Main Street, Suite 3400
Dallas, Texas 75202
Phone: (214) 939-2000

Ms. Rogers is a designated representative, who Old Republic expects to provide testimony regarding the claim that Holman-Farrar submitted and Old Republic's subsequent investigation and handling of that claim. She is also expected to testify regarding the practices, procedures, and industry customs of a title insurance company in handling claims. In providing such testimony, Ms. Rogers may offer opinions or provide mixed fact and expert testimony on the handling, processing, and evaluation of the claim submitted by Holman-Farrar under the Policy and on claims-handling standards under title insurance policies in general. Ms. Rogers will also testify that the manner in which Old Republic has handled Holman-Farrar's claim is appropriate and in accordance with all applicable claims-handling duties and standards. Ms. Rogers' opinions are based on her experience and skill as Chief Claims Counsel at Old Republic, and her review of the Policy, portions of Old Republic's claim file previously produced to Plaintiff (ORT 000001-001563), and Old Republic's business records produced in this case. The general substance of Ms. Rogers' mental impressions and opinions and the bases therefore with respect to Holman-Farrar's claim are set forth above and in the documents and records produced by Old Republic and will be further disclosed and supplemented by any deposition testimony given in this case. Ms. Rogers' duties at Old Republic do not regularly involve giving expert testimony.

2. Fred R. Jones
LANGLEY & BANACK
745 East Mulberry Avenue
Suite 700
San Antonio, Texas 78212
Phone: (210) 736-6600

Mr. Jones is a fact witness in this matter, who Old Republic expects to provide testimony regarding his retention by Old Republic to assist Holman-Farrar, along with his investigation and evaluation of and opinions about the available means to cure or resolve the Warranty Deed dated September 9, 1988, recorded under Document 270602 (Book 750, page 171) and the Reciprocal Easement Agreement dated February 24, 1997, recorded in Volume 1293, Page 386 of the Official Public Records of Hays County, Texas (together, the “Encumbrance”). In providing such testimony, Mr. Jones may offer opinions or provide mixed fact and expert testimony on the effect of the Encumbrance, means to resolve the Encumbrance, and his communications with and recommendations to Holman-Farrar regarding the same. Mr. Jones’ opinions are based on his experience and skill as a practicing and licensed attorney and his review of the Encumbrance and other pertinent information provided by Holman-Farrar. The general substance of Mr. Jones’ mental impressions and opinions and the bases therefore are reflected in his file (bates-labeled JONES 0001-1410 and FJ 0001-3611), which have been previously produced, and will be further disclosed and supplemented by any deposition testimony given in this case. Mr. Jones’ duties as counsel retained by Old Republic to represent an insured do not regularly involve giving expert testimony.

3. Don Colleluori
 Amanda Sotak
 FIGARI + DAVENPORT, LLP
 901 Main Street, Suite 3400
 Dallas, Texas 75202
 Phone: (214) 939-2000

Mr. Colleluori and Ms. Sotak will testify concerning the reasonableness and necessity of the attorneys’ fees Holman-Farrar seeks in this lawsuit under Tex. Civ. Prac. & Rem. Code §§ 37.009 or 38.001, taking into account the relevant criteria for such charges, including without limitation, the factors set forth in *Rohrmoos Venture v. UTSW DVA Healthcare, LLP*, 578 S.W.3d 469 (Tex. 2019). Specifically, it is anticipated that Mr. Colleluori and Ms. Sotak will provide attorneys’ fee opinions in response to any submitted by Holman-Farrar in connection with any motion under Fed. R. Civ. P. 54(d) that Holman-Farrar files in this matter. The bases for Mr. Colleluori’s and/or Ms. Sotak’s opinions include their experience, skill, and training as attorneys practicing in state and federal courts throughout Texas, together with information specifically related to the prosecution and defense of this lawsuit. In rendering their opinions, it is anticipated that Mr. Colleluori and/or Ms. Sotak will rely upon, among other things, the pleadings and discovery generated in this lawsuit and other evidence concerning the prosecution and defense of this suit. As of the date of this designation, Holman-Farrar has not yet produced its billing records or fee statements for the attorneys’ fees and expenses it seeks to recover, and Mr. Colleluori and Ms. Sotak have therefore been unable to form an

opinion about whether the attorneys' fees and expenses Holman-Farrar may claim under Tex. Civ. Prac. & Rem. Code §§ 37.009 or 38.001 are reasonable or necessary and reserve the right to supplement this disclosure after such billing records are provided for their review.

Reservations

Old Republic reserves the right and intends to supplement its designation of expert witnesses to include experts as permitted under Rule 26(a)(2), the Court's Scheduling Order [Doc. 12], and the Order Denying the Motion to Exclude Expert Testimony [Doc. 25]. Further, and subject to the Motion to Exclude Testimony of Lezlee Liljenberg [Doc. 29], Old Republic reserves the right to supplement its designation of expert witnesses to disclose responsive testimony to Lezlee Liljenberg if she is permitted to testify.

Old Republic reserves the right to elicit, by direct or cross-examination, the opinion testimony of experts or lay witnesses designated by Holman-Farrar or persons with relevant knowledge as identified by Holman-Farrar.

Old Republic reserves the right to supplement this designation as necessary or to withdraw the designation of any expert witness.

Dated: February 20, 2024

Respectfully submitted,

By: /s/ Stoker Burt

Don Colleluori
State Bar No. 04581950
don.colleluori@figdav.com
Amanda Sotak
State Bar No. 24037530
amanda.sotak@figdav.com
Stoker G. Burt
State Bar No. 24116151
stoker.burt@figdav.com

FIGARI + DAVENPORT, LLP
901 Main Street, Suite 3400
Dallas, Texas 75202
T: (214) 939-2000
F: (214) 939-2090

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that on February 20, 2024, a true and correct copy of the foregoing document has been served, via email, on the following:

David K. Sergi
Jessica L. Cousineau
DAVID K. SERGI & ASSOCIATES, P.C.
329 S Guadalupe Street
San Marcos, Texas 78666
david@sergilaw.com
jessica@sergilaw.com
ATTORNEYS FOR PLAINTIFF

/s/ Stoker Burt

Stoker G. Burt